

DRAFT 5/29/15 - SUBJECT TO CHANGE
For Review and Adoption by the DSC at the July 23-24, 2015 Meeting

Thursday, June 25, 2015
DELTA STEWARDSHIP COUNCIL
Park Tower Plaza
980 9th Street, Second Floor Conference Room
Sacramento, CA 95814

MEETING SUMMARY

1. Welcome and Introductions

The meeting was called to order at 9:02 a.m., June 25, 2015, by Chair Randy Fiorini.

2. Roll Call – Establish a Quorum (Water Code §85210.5)

Roll call was taken and a quorum established at 9:03 a.m. The following members were present: Patrick Johnston, Randy Fiorini, Phil Isenberg, Mary Piepho, Aja Brown and Susan Tatayon. The following member was absent: Frank Damrell. After roll call the Council recessed at 9:05 a.m. for the Closed Executive Session.

3. Closed Executive Session – (Not open to the public.) (Action Item)

- a. **Personnel Matter: Lead Scientist Vacancy (Government Code §11126 (a)(1))**
- b. **Litigation: Delta Stewardship Council Cases, Coordinated Proceeding JCCP No. 4758 (Government Code §11126 (e)(2)(a), (e)(e)(B)(i))**

The Closed Executive Session convened at 9:07 p.m. and adjourned at 10:05 a.m., with Chair Randy Fiorini presiding.

4. Reconvene Open Session

Upon adjournment of the Closed Executive Session, the Delta Stewardship Council reconvened in Open Session at 10:10 a.m. Chair Fiorini stated that no action had been taken.

5. Adoption of the May 28, 2015 Meeting Summary

Chair Fiorini asked if there were any questions, suggestions or comments from the Council or public regarding the May 28, 2015 Meeting Summary. There were none.

Motion: (Offered by Piepho, seconded by Brown) to approve the May 28, 2015 meeting summary.

Vote: (6/0: Johnston, Isenberg, Fiorini, Piepho, Brown, Tatayon) and the motion was adopted.

The video showing this vote can be found on the linked agenda at <http://www.cal-span.org/cqj-bin/archive.php?owner=DSC&date=2015-06-25&player=jwplayer> at 03:39.

6. Chair's Report

Chair Fiorini gave an overview of the day and highlights of Agenda Item 10, Delta Levee Investment Strategy: Investment Strategy Principles and General Updates and Agenda Item 11, Bay Delta Conservation Plan Update. Chair Fiorini said the Council would continue the discussion of the guiding principles for the DLIS. He drew attention to the comments received and that were summarized in a supplemental report. Chair Fiorini said for Item 11, the Council would begin to explore the revisions being proposed to BDCP and what they mean for the Delta Plan. Chair Fiorini said he expected these discussions and a review of the recirculated BDCP EIR/S would take place over the next several meetings. Lastly, Chair Fiorini said that two posters from the Science Conference were displayed outside the meeting room and encouraged everyone to take a moment to look at them.

7. Executive Officer's Report

Executive Officer Jessica Pearson began her report by briefing the Council on two comments letters sent by Council staff and provided as handouts.

The first was from Deputy Executive Officer Cindy Messer to Petrea Marchand, Yolo Habitat Conservancy executive director, in regard to the Council's preliminary comments on the Second Administrative Draft Yolo Habitat Conservation Plan and Natural Community Conservation Plan. The letter is posted on the Council website at http://www.deltacouncil.ca.gov/sites/default/files/2015/06/Yolo%20Habitat%20Conservancy_DSC%20Comments_061915.pdf. The second comment letter was from Deputy Executive Officer Cindy Messer to the Wildlife Conservation Board regarding the Council's comments on the Board's Project Proposition 1 Proposal Solicitation Notice for the California Stream Flow Enhancement Program. The letter is posted on the Council website at http://www.deltacouncil.ca.gov/sites/default/files/2015/06/WCB_Stream%20Flow%20Program_DSC%20comments_062315.pdf.

Ms. Pearson briefly described an event she attended on June 17, entitled, *More than Water Saving the History and Culture of the Sacramento-San Joaquin Delta* and told Council about things she learned at the event. Ms. Pearson said a follow-up conference is being planned in July.

Ms. Pearson announced the Notice of Preparation for the DLIS had been circulated and announced the date and location of the two scoping meetings that were being planned in West Sacramento and Stockton.

7b. Legal Update

Chief Counsel Chris Stevens invited the Council's Legal Intern Cody Phillips to brief the Council on cases of interest to the Council, including these relating to recent curtailments of water rights by the State Water Resources Control Board. Before Mr. Phillips began his update Mr. Stevens commended him on his service to the Council. The Legal Update Mr. Phillips provided is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-june-25-2015-meeting-agenda-item-7b-legal-update>.

7c. Legislative Update

The Legislative Update was presented by Ryan Stanbra, Legislative and Policy Advisor to the Council. Mr. Stanbra began with the legislative calendar, noting that the deadline to pass bills out of their house of origin would be on June 5. Mr. Stanbra briefed the Council on the budget outcomes and gave an update on bills of interest the Council staff has been tracking. The Legislative Update Mr. Stanbra provided is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-june-25-2015-meeting-agenda-item-7c-june-legislative-update>. Throughout the Legislative Update, Mr. Stanbra heard Council members' comments, answered questions and provided clarification.

Ms. Pearson announced the names of the Council's two summer interns that have started work at the Council – Troy Barnhart, a Stanford Government Fellow and Brian Arena, an intern from University of California, Davis. Ms. Pearson gave brief descriptions of both Mr. Barnhart and Mr. Arena and their studies.

Following the Executive Officer's Report, Chair Fiorini asked if there were any members of the public who wished to comment. There were none.

8. Lead Scientist's Report

On behalf of Dr. Peter Goodwin, Dr. Rainer Hoenicke presented the Lead Scientist's Report. Dr. Hoenicke's report covered collaborative science activities and science communications. The staff report for Agenda Item 8 is posted on the Council's website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-june-25-2015-meeting-agenda-item-8-lead-scientists-report>. After Dr. Hoenicke concluded the Lead Scientist's Report, he invited Daniel Livsey, the Council's Sea Grant State Fellow, to discuss the *By the Numbers* report. *By the Numbers* is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-june-25-2015-meeting-agenda-item-8-attachment-1-numbers-summary>.

Throughout the discussion of the Lead Scientist's Report, Dr. Hoenicke heard Council members' comments, answered questions and provided clarification. Chair Fiorini asked if there were any members of the public who wished to comment on the item. There were none.

9. Delta Independent Science Board Report

Dr. Tracy Collier, Past-Chair of the Delta ISB, presented the Delta ISB Report. Dr. Collier updated the Council on the Delta ISB meeting held on June 11-12 and gave status reports of ISB Program Reviews. Mr. Collier said the Fish and Flows report will be finalized at the July 15 teleconference and there were substantial comments received. The Adaptive Management draft report was sent back to the board members that authored it with comments. Discussions will occur in July and it will be released for public comment, with the expectation of finalizing it in August or September. Dr. Collier reported on the self-assessment and feedback from key science and policy leaders in the Delta that took place on the second day of the ISB meeting. Regarding the review of the recirculated EIR/S for BDCP, the ISB appointed a subgroup to work with the Council to examine it. The staff report for the Delta ISB report is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-june-25-2015-meeting-agenda-item-9-delta-independent-science-board>.

Throughout the discussion of the Delta ISB Report, Dr. Collier heard Council members' comments, answered questions and provided clarification. Chair Fiorini asked if there were any members of the public who wished to comment on the item. There were none.

At the conclusion of Agenda Item 9, the Council recessed for lunch at 11:30 a.m. and resumed the meeting at 12:15 p.m.

10. Delta Levees Investment Strategy: Investment Strategy Principles and General Updates

Deputy Executive Officer Cindy Messer and Dustin Jones presented Agenda Item 11. Ms. Messer offered opening remarks, background information and general updates on the Delta Levees Investment Strategy. The staff report for this item is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-june-25-2015-meeting-agenda-item-10-delta-levee-investment-strategy>. Ms. Messer discussed the CEQA process and said the Notice of Preparation (Attachment 4) had been filed. The NOP is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-june-25-2015-meeting-agenda-item-10-attachment-4-delta-levees>.

Mr. Jones discussed the stakeholder and outreach meetings as well as a meeting with staff from the Department of Water Resources to discuss the methodology that was developed to analyze the risks of water supply disruption. Mr. Jones discussed the project schedule and milestones. The schedule, posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-june-25-2015-meeting-agenda-item-10-attachment-5-delta-levees>, has been extended and additional revisions to the schedule made. The project schedule will be a standing item for the DLIS monthly updates.

Next, Ms. Messer discussed the comments received on the Draft Delta Flood Management Investment Strategy Principles. The comments are summarized in a table that is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-june-25-2015-meeting-agenda-item-10-attachment-19-summary-stakeholder>.

Individual comment letters received are listed as Item 10, Attachments 1, 2, 3, and 6-18 and are posted on the Council website at <http://www.deltacouncil.ca.gov/event-detail/11650>. Ms. Messer said a total of 16 comment letters had been received and summarized the key themes. For the Council members' convenience, the Draft Delta Flood Management Investment Strategy Principles that was presented at the May meeting was provided as a handout. The Principles document is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-june-25-2015-meeting-agenda-item-10-attachment-20-delta-flood>.

Throughout the presentation of Item 10, Ms. Messer and Mr. Jones heard Council members' comments, answered questions, and provided clarification. Chair Fiorini asked if there were any members of the public who wished to comment on the item.

Public Comment – Agenda Item 10

Gilbert Cosio, MBK Engineers, said he has been involved in the process and similar in processes for over 25-years. He said it was his hope to have a plan that was implementable and would surpass the other plans that were not implementable and really get things done. Mr. Cosio said as he reviewed the Principles document he found there were gaps in it that he had hoped would be filled by now and offered his assistance. Mr. Cosio made brief comments on

the subventions program and said he believed it was a successful program. Mr. Cosio suggested looking at the 33 reclamation districts he represents to see where they were, what has been done, and where they are now to evaluate where we expect to be in the future. Mr. Cosio suggested incentives to help the reclamation districts for habitat restoration and how to incorporate them in the principles to encourage the farmers to step forward. Mr. Cosio asked if there were any questions from the Council members he might address. The Council members took the opportunity to ask Mr. Cosio questions that he answered and provided clarification.

Tom Zuckerman, Central Delta Water Agency, said his agency would submit written comments on the Notice of Preparation that will cover in detail many of his comments today. Mr. Zuckerman said he wondered if it's timely to devise a comprehensive policy before having the opportunity of receiving information from ARCADIS and the Delta ISB and peer review panels. He said he believed in reviewing the Principles document, that factually it was a little behind the curve making the document not current, however the comments received tend to correct some of that misinformation. Mr. Zuckerman said, having been involved from the beginning of the CALFED process for several years, he believed this is the crowning achievement of the State's program and for modest amounts of money spent in the Delta there have been tangible improvements that are demonstrated in the levee program in the Delta. The incidents of federal assistance for flooding and the way the state has controlled its expenditures within the subventions program and the special projects program have been remarkable achievements. Mr. Zuckerman said the comments received were excellent and urged the Council to review them carefully. Mr. Zuckerman said he believes a long-term program is needed and in order to effectively address the needs of the Delta a constant but modest source of funding is necessary. Mr. Zuckerman said this was a system approach with an enormous body of beneficiaries and potential victims of disasters and it is necessary to constantly maintain and improve the system as well as being able to respond to disasters as they occur.

Anthony Berzinas, Bethel Island Municipal Irrigation District, encouraged the Council to take a tour of the district so they can see how it is struggling. Mr. Berzinas gave an example of a project recently completed at Horseshoe Bend that achieved HMP standard but the dollar amount of the cost share was 2/3 over the District's annual budget. Mr. Berzinas said they are in a unique situation with the issue of cost sharing and maintenance programs that are paid in arrears acting as an economic hardship. Mr. Berzinas urged the Council to look at the economically disadvantaged communities in the district and said that the environment is important but he believes mitigation should be looked at more realistically.

John Maguire, San Joaquin County, said the county submitted comments and gave his unique perspective as a local maintaining agency. Mr. Maguire clarified the reclamation districts and the city/county involvement in land use decisions and the authorities they have. Mr. Maguire said that the cities and counties are regulated by both State and federal governments in terms of the level of flood control required. Mr. Maguire discussed SB 5 and projects regulated under SB 5 and noted that SB 5 does not preclude development behind levees, but does require improvement to a 200-year level of protection. Mr. Maguire said in many cases the way local agencies generate funding to make improvements to provide increased flood protection is through fees and assessments charged to the new developments and in many existing urban areas this can result in a net reduction in overall flood risk and liability. Following Mr. Maguire's comment, the Council members took the opportunity to ask Mr. Maguire questions that he answered and provided clarification.

Following the public comment for Item 10, the Council deliberated on the next steps. Council member Piepho said she supported Council member Johnston redrafting the Principles

document, taking into account the comments and bringing back a document for the July or August meeting. Council member Tatayon expressed an interest in learning about the consequences of islands where levee failures occurred and what the consequences might be if landowners want to opt out of subventions. Council member Brown said she would like to see case studies for context and was interested in investments and how they were funded. Vice Chair Isenberg cited the statute for appropriate land uses and strategic investments for the levees and said it was necessary to go back and reevaluate the cost sharing estimates.

11. Bay Delta Conservation Plan Update.

Chief Deputy Executive Officer Dan Ray presented Agenda Item 11. Mr. Ray was joined by staff members, Anthony Navasero and Jessica Davenport. Mr. Ray led the discussion of the recently announced changes to the Bay Delta Conservation Plan (BDCP). Mr. Ray explained that the Administration announced BDCP will not be completed as a Natural Community Conservation Plan but instead would be replaced by the proposed construction of water conveyance facilities through an effort called California WaterFix and an effort called California EcoRestore intended to accelerate implementation of habitat restoration actions being planned in the Delta. Mr. Ray described in detail both efforts. The Department of Water Resources has been consulting with the Council in respect to its next steps and plans for Delta conveyance and the Council is also participating with other agencies in discussions regarding EcoRestore. Mr. Ray said he expected the Council's role in consulting with DWR as the projects develops will continue but the nature of the consultation may change especially following completion of the Council's review of the draft recirculated EIR.

Next, Mr. Ray addressed the implications for the Delta Plan of not completing BDCP as envisioned. He explained how BDCP, upon successful completion, would have been incorporated into the Delta Plan to address improving conveyance and ecosystem restoration but the Delta Plan also states the issue of conveyance would be revisited if BDCP wasn't successfully completed by the end of this year. The staff report for this item is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-june-25-2015-meeting-agenda-item-11-bay-delta-conservation-plan>. Mr. Ray drew the Council's attention to Attachment 1 of the staff report, Appendix A of the Delta Plan, posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-june-25-2015-meeting-agenda-item-11-attachment-1-appendix-delta-plan>. Attachment 2, *What the Delta Plan Says about Conveyance, Storage & Operations*, are excerpts that were drawn from a review of the narrative as well as the policies and recommendations contained in Chapters 3 and 4 of the Delta Plan. The attachment states these are intended as a starting point and guide for discussions around the proposed new approach to BDCP and its relationship to the Council's Delta Plan. Attachment 2 is posted on the Council's website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-june-25-2015-meeting-agenda-item-11-attachment-2-conveyance-storage>.

Mr. Ray noted the inclusion of a letter Chair Fiorini sent out to the Delta Plan Interagency Implementation Committee, Attachment 3, posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-june-25-2015-meeting-agenda-item-11-attachment-3-letter-chair-fiorini>. Chair Fiorini's letter said because of the changes to BDCP, the Council would begin reviewing the Delta Plan as it relates to Delta conveyance to determine how to facilitate improved conveyance that is consistent with the Delta Reform Act.

Mr. Ray's report included discussions of what revisiting the restoration and conveyance issues might look like and what approaches the Council might consider in considering the review and

now was the key time to reexamine what the Delta Plan says about conveyance, storage and operations.

Throughout the presentation of Item 11, Mr. Ray, Ms. Davenport and Mr. Navasero heard Council members' comments, answered questions, and provided clarification. Chair Fiorini asked if there were any members of the public who wished to comment on the item. There were none.

Chair Fiorini asked if there were any questions regarding the letter sent to the DPIIC. There were none. As there was no public comment for Item 11, the Council deliberated on their next steps, including endorsement of the June 17, 2015 letter.

Motion: (Offered by Piepho, seconded by Isenberg) to endorse the June 17, 2015 letter from Chair Fiorini to Secretary Laird regarding the Administration's approach to improved conveyance and ecosystem restoration in the Delta.

Vote: (6/0: Johnston, Isenberg, Fiorini, Piepho, Brown, Tatayon) and the motion to endorse the letter was adopted.

The video showing this vote can be found on the linked agenda at <http://www.cal-span.org/cgi-bin/archive.php?owner=DSC&date=2015-06-25&player=jwplayer> at 3:07:40.

After the motion and vote, the Council discussed next steps regarding this item. Chair Fiorini said Mr. Ray identified issues in the staff report that needed to be reevaluated, focusing on the storage and conveyance operations component of the Delta Plan. Ms. Pearson said that staff may invite panels on the subject at the July meeting. Council member Piepho requested the Council review the western Delta intake proposals.

12. Public Comment

Chair Fiorini asked if there were any members of the public who wished to address the Council.

Public Comment – Agenda Item 12

Tony Berzinas, Bethel Island Municipal Improvement District, said the Council was tasked with looking at ways to reduce reliance on diversions from the Delta and said the Delta cannot support more water being diverted. For the users that are diverting Delta water, Mr. Berzinas strongly suggested changing their building code requirements, landscape designs, how they design plumbing and water reclamation and they must be creative in reducing their current and future water use. Mr. Berzinas concluded his comment with alternative suggestions for the tunnels and its location.

13. Preparation for Next Council Meeting – Discuss (a) expected agenda items; (b) new work assignments for staff; (c) requests of other agencies; (d) other requests from Council members; and (e) confirm next meeting date – July 23-24, 2015.

The meeting adjourned at 2:40 p.m.